

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ADRIAN FELICIANO,

Plaintiff,

v.

FOOD TRUCKS IN THE VALLEY, LLC,

Defendant.  
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**ORDER**

20-CV-1759 (MKB) (RER)

MARGO K. BRODIE, United States District Judge:

Plaintiff Adrian Feliciano commenced the above-captioned action against Defendant Food Trucks in the Valley, LLC on April 9, 2020, alleging copyright infringement pursuant to 17 U.S.C. § 501, and the removal and/or alteration of copyright management information in violation of 17 U.S.C. § 1202(b) of the Digital Millennium Copyright Act. (Compl. ¶¶ 1, 13–25, Docket Entry No. 1.) Defendant failed to appear or otherwise defend this action, and the Clerk of Court entered default against Defendant on August 6, 2020. (Clerk’s Entry of Default, Docket Entry No. 13.) On October 28, 2020, Plaintiff moved for a default judgment, (Pl.’s Mot. for Default J., Docket Entry No. 10), and on April 7, 2021, the Court referred the motion to Magistrate Judge Ramon E. Reyes, Jr. for a report and recommendation, (Order dated Apr. 7, 2021).

By report and recommendation dated August 26, 2021, Judge Reyes recommended that the Court grant Plaintiff’s motion for a default judgment and award a total of \$6,740.00 representing: (1) \$5,000.00 in statutory damages; (2) \$710 in actual damages; (3) \$630 in attorneys’ fees; and (4) \$400 in costs (“R&R”). (R&R 1–2, Docket Entry No. 17.)

No objections to the R&R have been filed and the time for doing so has passed.

## **I. Discussion**

A district court reviewing a magistrate judge’s recommended ruling “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.” *Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (quoting *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002)); *see also Phillips v. Long Island R.R. Co.*, 832 F. App’x 99, 100 (2d Cir. 2021) (same); *Almonte v. Suffolk County*, 531 F. App’x 107, 109 (2d Cir. 2013) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Sepe v. N.Y. State Ins. Fund*, 466 F. App’x 49, 50 (2d Cir. 2012) (“Failure to object to a magistrate judge’s report and recommendation within the prescribed time limit ‘may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.’” (first quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997); and then citing *Thomas v. Arn*, 474 U.S. 140, 155 (1985))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s [r]eport and [r]ecommendation if the party fails to file timely objections designating the particular issue.” (first citing *Cephas*, 328 F.3d at 107; and then citing *Mario*, 313 F.3d at 766))).

The Court has reviewed the unopposed R&R and, finding no clear error, adopts the R&R pursuant to 28 U.S.C. § 636(b)(1).

## II. Conclusion

Accordingly, the Court adopts the R&R and grants Plaintiff's motion for a default judgment against Defendant. The Court awards a total of \$6,740.00 representing: (1) \$5,000.00 in statutory damages; (2) \$710 in actual damages; (3) \$630 in attorneys' fees; and (4) \$400 in costs.

Plaintiff is directed to serve copies of this Order upon Defendant at its last known address and to file proof of service with the Court. The Clerk of Court is respectfully directed to close this case.

Dated: September 13, 2021  
Brooklyn, New York

SO ORDERED:

s/ MKB  
MARGO K. BRODIE  
United States District Judge